

MINUTES

HEARING OF THE NAVAJO COUNTY PLANNING AND ZONING COMMISSION

September 16, 2010

ATTENDANCE P & Z Commissioners

ATTENDED

Wendell DeCross, Chairman
Bob Hall
Carol Davis
Ruth Ann Smith
Chuck Teetsel
Bill Rawlings
Randy Murph
Joel Lawson

ABSENT

Evelyn M. Meadows
Rick Slone
Jason Hatch
Robert K. Black, Jr.

Staff Attendance

Greg Loper
Homero Vela

Bill Bess
Alberto L. Peshlakai

Meeting held at the Navajo County Board of Supervisors Chambers, Holbrook, Arizona – Time: 6:00 p.m. to 9:27 p.m.

Chairman **Wendell DeCross** called the meeting of the Navajo County Planning & Zoning Commission to order at 6:00 p.m. **Mr. DeCross** led the Pledge of Allegiance and explained the meeting procedures and house-keeping rules to the public. **Mr. Decross** also introduced a new Commission member, **Randy Murph**, who will represent District 3.

Item # 1 – AMENDMENT TO THE NAVAJO COUNTY ZONING ORDINANCE: Discussion and possible Commission action on an amendment to Article 20 of the Zoning Ordinance to define and regulate Renewable Energy Generation (such as wind and solar) through the issuance of Special Use Permits.

Greg Loper introduced Charlie Schlinger with EN3, and then presented the Staff Report for the proposed amendment to the Navajo County Zoning Ordinance, which is a proposed Wind Energy Generation Facilities Ordinance. **Mr. Loper** noted that in addition to the Ordinance, there are also Wind Energy Generation Facilities Sound Requirement Guidelines and related application materials. **Mr. Loper** explained how the three items work together, and how the proposed Ordinance began as a way to address all forms of renewable energy, but after seeking and receiving input from the Board of Supervisors, it now only addresses wind. **Mr. Loper** went on to explain the public involvement and hearing processes prior to tonight's hearing, and to also explain the direction provided by the Board of Supervisors.

Mr. Loper explained that in regard to the process for approval of a Wind Energy Generating Facility, proposed wind energy projects will still require a Special Use Permit which will include two (2) Public Meetings prior to the Planning Commission hearing, a Public Hearing at the Planning Commission, and a Public Hearing at the Board of Supervisors. **Mr. Loper** noted that it is expected that each project will also have its own unique set of stipulations, based on the characteristics of that particular project. **Mr. Loper** went on to explain the proposed Ordinance and related materials, and offered answers to various questions from the Commission members.

Chairman DeCross then asked for public speakers in **favor** of the proposed Ordinance.

Dannette Weiss, 2878 E. White Mountain Blvd. with Arizona Game and Fish, noted that she supports the proposed Ordinance and spoke to issues regarding involvement with the Arizona Game and Fish

Department and also conformance with the Game & Fish's "Guidelines for Reducing Impacts to Wildlife from Wind Energy Development in Arizona." **Ms. Weiss** noted that she will be sending additional written comments to Navajo County staff.

Christopher Moore of Nature Energies, 2720 Superior Drive #103, Rochester, Minnesota. Mr. Moore recommended four changes as follows: 1) For decommissioning, forms other than just a bond be allowed; 2) Add a definition for a participating landowner; 3) Proposed setbacks from roads due to shadow flicker aren't necessary, as it isn't an issue while driving, and; 4) Power Purchase Agreements aren't always executed prior to receiving zoning entitlements (such as a Special Use Permit). **Mr. Loper** responded that the P.P.A., or evidence of an executed P.P.A., would be required prior to issuance of any building or construction permits.

David Mills, a resident of Navajo County, noted support for the proposed Ordinance and for green energy in general, and encouraged the County to not over-regulate Wind Energy or other industries.

Kristen Goland, Permit Manager with Iberdrola, responded to Dannette Weis of Arizona Game & Fish comments regarding the Game & Fish's Guidelines. She also noted support for the proposed Ordinance as it provides certainty for the applicant. She noted a concern with Section 4.D, regarding FAA-required lighting and the prohibition of strobes. She also commented that a setback of 1-mile would have eliminated approximately 23% of the Dry Lake II project, and that she has a concern with the SUP running with the applicant, rather than with the land, as projects are sometimes sold or transferred to different entities within a company, as had occurred with both Dry Lake 1 and 2.

Steve Brophy, President of Aztec Land and Cattle Company, 10265 W. Camelback Rd. # 104 Phoenix, AZ 85037. **Mr. Brophy** is in support of the ordinance and recommended changes to the bonding requirements, as the proposed requirements may unduly burden a property owner.

Chairman DeCross then asked for public speakers **opposed** to the proposed Ordinance.

James Mills, 8582 Garden Home Trail, noted a number of studies and reports of health issues associated with wind energy. Mr. Mills recommends a setback 1 mile.

Dr. Eleanor Clark, a property owner in the Cedar Hills area, noted a number of reports and studies indicating a setback of at least 1.25 miles. She also commented upon a recent teleconference with her, noted acoustic expert Richard James, Navajo County staff and EN3, and that Mr. James had recommended a setback of 1.25 miles. She also expressed concerns regarding enforcement of noise complaints.

Donna Denzer, is opposed to the proposed setback of ½-mile, and questioned the viability of wind energy and the intrusion of the industry on people's property and the health issues associated with wind energy.

Christen Warwick, resident of the Cedar Hills area, commented on the teleconference referenced by Eleanor Clark, and presented copies of the recording of the teleconference to staff and Commission members. Based on the recommendations of Richard James and others, he suggested a setback of 1.25 miles, and that at a minimum Navajo County should require a minimum setback of 1 mile.

Karen Ingersoll lives north of Snowflake, off Old Woodruff Road, questioned whether or not the Commission members had received and read everything sent to them. She directly questioned several Commission members if this was true or not. **Ruth Ann Smith** stated yes. **Bill Rawlings** said he believed so but had read so many items he couldn't comment on a specific one. She went on to question the impact of wind energy on adjacent property values, and to also opposition to a setback of ½-mile. She also suggested that the setback be to a property line, not to a home. She recommends a setback of at least 1.25 miles.

Wendell DeCross then spoke on behalf of himself and the Commissioners that he resented the accusation that the Commission does not read the material they receive, and that the Commission takes its job very seriously.

Kay Turner, lives off of Old Woodruff Road. Is opposed to the sound recommendations of the proposed Ordinance, as she keeps her windows open and the proposed sound guidelines are based on partially-open windows. She would also like the public participation requirements be put back into the Ordinance, not just placed in the application requirements. She expressed a concern about the lack of FAA-required lighting at the Dry Lake 2 project, which is under construction. She also is opposed to the ½-mile setback.

Susan Malloy lives in the Cedar Hills area outside of Snowflake. Is opposed to close proximity of wind turbines to homes and doesn't believe that the proposed Ordinance goes far enough in protecting existing and future residents.

Trudy Lipsys, a resident of Antelope Valley, is opposed to wind energy in close proximity to homes.

Doug Verduin, a resident of Antelope Valley. Has concerns about blasting and notes that there is nothing in the draft Ordinance or related documents regarding this issue.

Sandy Verduin, a resident of Antelope Valley, is also very concerned regarding blasting, and also noted that the media is extremely interested in the process that Navajo County is using to draft the Ordinance.

Lana Hansen, a resident of Antelope Valley. Quoted from a book "Cell Food" that notes a correlation between cancer and low frequency sound, which is what wind turbines produce.

Lois Hunt, a resident of Antelope Valley. Opposed to the proposed setbacks, and recommends a setback of 2 miles to a property line (not just to an occupied residence).

Mike Lyles, a resident of Snowflake. He states that he resents his environment being changed.

Steen Hviid, a resident of the Cedar Hills area east of Snowflake. Presented information relating to noise and sound generated by wind turbines. He recommends a maximum sound level of 35 dBA outside of a residence, along with a setback of 1 mile.

Itasca Small, a resident of Antelope Valley. Notes her opposition to wind energy, especially in close proximity to residences and land that could be developed for residences. She stated that she is partially Autistic, and that as such she can hear sound waves that many others cannot hear. She also stated that her health has deteriorated since Dry Lake I has been put up.

Commission Comments & Motion:

Chuck Teetsel asked a question regarding the recommendation for the color of the wind turbine. **Greg Loper** stated that they are looking for colors that are easy to match, won't be extremely bright, and recommend not just white but also other colors. **Mr. Teetsel** also asked about blasting. **Greg Loper** responded that the intent is to have something in the application materials, as staff does not believe it to be an issue and noted that blasting for roads and basements is much more intense than the limited blasting done for the footing for wind turbines. Blasting companies also carry insurance to address damages.

Randy Murph stated he would like to see language in the Ordinance regarding blasting, and noted that the contractors are responsible for damage and carry insurance for that reason.

Joel Lawson directed a question towards **Lance Payette**, County Attorney, asking if the Commission can place project-specific stipulations on a project, even if the Ordinance is adopted and the project otherwise

meets all the requirements of the adopted Ordinance. **Lance Payette** responded “yes,” and that it anticipated that every project will have project specific stipulations.

Joel Lawson asked staff if it is possible to tell specifically if a noise is generated by only a wind turbine or if from other sounds. Greg Loper responded that to some extent you can not always tell what is generating the sound, and that the purpose for having the developer involved in any follow-up complaints is to assist staff with determining noise sources.

Ruth Ann Smith stated that she doesn’t support a setback of only ½-mile.

Ruth Ann Smith made a motion to continue this item to the Planning Commission meeting on October 21, 2010, **Chuck Teetsel**, seconded the motion. The motion carried by a vote of 4 in favor, 3 opposed, and 1 abstention.

Item # 2 – Presentation & Discussion on Aztec Area Plan.

Greg Loper gave a brief report regarding the Aztec Area Plan which will be brought before the commission at a future date. He noted that this is a discussion item only – no motion is needed at this time.

Owner/Applicant Comments: None

In Favor: No one from the public came forward in favor of this Special Use Permit.

Opposed: No one from the public came forward in favor of this Special Use Permit.

Staff Questions/Comments: No additional questions/comments from staff.

Commission Comments & Motion: No comments from the Commission and no motion was needed.

Item # 3 – Possible approval of minutes from the Commission hearing of June 17, 2010.

Chuck Teetsel made a motion to approve the minutes as presented. Motion died due lack of a second as the minutes had not been reviewed by all Commission members.

Item # 4 – Report from Staff to the Commission.

No comments from staff to the Commission.

Item # 5 – Commissioner’s comments and/or directions to staff.

No comments or direction to staff was offered by the Commission.

With there being no further business to come before the Planning and Zoning Commission, the meeting was adjourned at 9.27 p.m. A motion was made to adjourn the meeting by **Bill Rawlings**. **Joel Lawson** seconded the motion, and it passed unanimously.

Approved this 21st day of October, 2010.

Chairman, Navajo County
Planning & Zoning Commission

ATTEST:

Secretary, Navajo County
Planning & Zoning Department